

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, August 1, 2007

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., Margulies, J. and Mary Quilez, Deputy Clerk.

- A114454     The People,  
              v.  
              David Desie Revello.  
Cause called and argued by Steven Lubliner, counsel for appellant and Stan Helfman, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A113937     Dianne Urhausen,  
              v.  
              Charles Lee Craft.  
Cause called and argued by Peter A. Urhausen, counsel for appellant, and by W. Eric Blumhardt and Steven Sheriff Abern, counsel for respondents. Cause ordered submitted.
- A114305     Everest Investors 12, et al.,  
              v.  
              Prometheus Development Co. Inc., et al.  
Cause called and argued by Richard P. Tricker, counsel for appellant, and by Bruce Adelstein, counsel for respondent. Cause ordered submitted.
- A114338     Doreyne Douglas,  
              v.  
              Louis J. Cisz III.  
Cause called and argued by Paige Wickland, counsel for appellant, and by Alan Dell'Ario, counsel for respondent. Cause ordered submitted.
- A115516     Mohamed Alkadri,  
              v.  
              John S. May  
Cause called and argued by Lorraine Marie Walsh, counsel for appellant, and by Howard Richard Melamed, for respondent, by teleconference. Cause ordered

submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, August 1, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Mary Quilez, Deputy Clerk.

- A113344 Raymond A. Chamberlin,  
v.  
City of Albany, et al.  
Cause called and argued by Raymond A. Chamberlin, appellant in propria persona and Zach Cowan and Richard A. Judd, counsel for respondents. Cause ordered submitted.
- A115031 Ramiro Garcia Sanchez, et al.  
A115547 v.  
Ben A. Begier Co., et al.  
Cause called and argued by Diane K. Godfrey, counsel for appellants, by teleconference and David R. Sidran and Jan Chilton, counsel for respondents. Cause ordered submitted.

Court adjourned until Thursday, August 2, 2007 at 9:00 a.m.

Wednesday, August 1, 2007

Division Three

**A112837 – The People v. Bobby Antoine McKenzie.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Five

**A115260 – In re Haley M., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Carol M.**

The orders of the juvenile court are affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday August 2, 2007

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Margulies, J., and Mary Quilez, Deputy Clerk.

- A107665    The People,  
              James Lamont Baldwin.  
Cause called and argued by A. J. Kutchins, counsel for appellant, and Jeffrey Laurence, Deputy Attorney General, counsel for respondent. Cause ordered submitted
- A114442    Lisa Murphy,  
              v.  
              Check 'N Go of California.  
Cause called and argued by Alexandra Andrea Bodnar, counsel for appellant and Ellen Lake and Eric Andrew Grover, counsel for respondent. Cause ordered submitted.
- A113027    Genaro Garcia, et al.  
A113369    v.  
              Dro Dyne Corporation.  
Cause called and argued by Dana Burch and Stephen K. Onstat, counsel for appellant and Gary Brayson, counsel for respondents.

Court adjourned.

Friday, August 3, 2007

Division Two

**A114361 – California F.I., LLC v. Litton Loan Servicing, LLP, et al.**

The judgment is reversed and the cause is remanded to the trial court with directions to vacate its order sustaining defendants' demurrer and enter a new order that is consistent with this opinion. We note that plaintiff does not challenge on appeal the court's sustaining of its fourth cause of action, for slander of title, on a separate ground. Our ruling does not affect this determination of the trial court. Respondents are to pay appellant's appeal costs. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A116524 – Martha E. Hubbard v. Blue Shield Of California.**

The judgment is affirmed. Blue Shield is awarded the costs of appeal. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A112101 – Kathleen M. Smith et al. v. Exxon Mobil Oil Corporation.**

The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. Appellant shall receive costs on appeal. Kline, P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication.)

Division Five

**A112131 – Patrick Reeves v. James W. Beazley, et al.**

By the Court: The opinion filed July 9, 2007 is modified by: (See order.) There is no change in the judgment. Plaintiff's petition for rehearing is denied. Jones, P.J. (Not for Publication.)

**A112697/A113548 – The People v. Nathan Matthew Evert.**

By the Court: It is ordered that the opinion filed herein on July 9, 2007, be modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

Monday, August 6, 2007

Division One

**A116330 – In re P.L., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. N.L.**

The order setting the six-month review hearing is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Tuesday, August 7, 2007

Division One

**A113324 – Leroy Cisneros v. DRI Commercial Corporation et al.**

The order denying the anti-SLAPP motion is affirmed. Marchiano, P.J. I Concur: Stein, J. (See Dissenting Opinion by Swager, J.) (Not for Publication.)

**A113285 – James R. Orosco v. Fletcher S. Smith.**

The order denying the motion to set aside the default judgment is affirmed. The judgment is modified to strike the award of punitive damages. Each party shall pay his own costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J.

**A113989 – James Orosco v. Fletcher S. Smith.**

The order denying Smith's motion to set aside the judgment is reversed and the matter is remanded to the trial court with directions to enter a new order granting the motion vacating the default and setting aside the judgment. Smith is awarded his costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A115014 – In re the Marriage of Iqbal Khan and Wahajia Alam. Iqbal Khan v. Wahajia Alam.**

The orders appealed from are affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

**A117434 – Health Net, Inc., et al. v. Workers' Compensation Appeals Board and Bente Hansen.**

By the Court: The WCAB's order denying Health Net's petition for reconsideration is annulled. The matter is remanded for further proceedings consistent with the views expressed in this opinion (i.e., calculation of the permanent disability award using the permanent disability rating schedule effective January 1, 2005). The parties shall bear their own costs. Before Ruvolo, P.J., Reardon, J., Rivera, J. (Not for Publication.)

Tuesday, August 7, 2007 (continued)

Division Five

**A115380 – STMicroelectronics, Inc. v. SanDisk Corporation.**

The order denying SanDisk's special motion to strike is affirmed. Jones, P.J. We Concur:  
Gemello, J., Needham, J. (Not for Publication.)

Wednesday, August 8, 2007

Division One

**A116834 – State Route 4 Bypass Authority v. The Superior Court of Contra Costa County; Toshiko Morimoto, et al, R.P.I.**

**A116851 – State Route 4 Bypass Authority v. The Superior Court of Contra Costa County; Ronald E. Nunn, R.P.I.**

For these reasons, we hold that the trial court erred in finding that the dedication requirement was unlawful and in resolving the *Porterville* issue in favor of real parties.

Let a peremptory writ of mandate issue, commanding the Contra Costa County Superior Court in case Nos. C05-00485 and C05-00857 to vacate the statement of decision filed on February 14, 2007, and to instead enter a statement of decision ruling in favor of the Bypass Authority in accordance with the views expressed in this opinion. The stay previously imposed shall remain in effect until the remittitur issues. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

**A114338 – Doreyne Douglas v. Louis J. Cisz III.**

We conclude the trial court erred in changing the child's surname from Cisz to Douglas and therefore reverse the order changing the child's surname to Douglas. The father is awarded his appellate costs. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A110913 – Michael DiPirro v. Bondo Corporation.**

By the Court: It is ordered that the opinion filed herein on July 12, 2007, be modified in the following particulars: (See order.) There is no change in the judgment. Stein, Acting P.J. (Certified for Publication.)

Division Two

**A109995 – The People v. Milburn Michael Lunghi.**

The abstract of judgment shall be modified to strike the \$200 parole revocation fine imposed pursuant to section 1202.45. In all other regards, the judgment is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A113150 – California State Pipe Trades Joint Apprenticeship Committee et al. v. California Apprenticeship Council; Plumbing, Heating and Cooling Contractors of the Greater Sacramento Area Plumbers Unilateral Apprenticeship Committee, R.P.I.**

We affirm the judgment of the trial court denying appellants' petition for a writ of mandate. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Wednesday, August 8, 2007 (continued)

Division Two

**A117991 – In re the Marriage of Beverly Padgett and Robert J. Padgett. Beverly Padgett v. Donna Little, as Personal Representative, etc.**

The appeal is dismissed. Costs to respondent. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, August 8, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Horner, J., pro tem.; and B. Robbins, Deputy Clerk.

A112954     Arnold S. Malter,  
                 v.  
                 Barry Willdorf.  
Cause called and argued by David S. Kim, counsel for appellant, via teleconference, and Jessica Rudin MacGregor, counsel for respondent. Cause ordered submitted.

A114438     Arnold S. Malter,  
                 v.  
                 Joan Malter Osburn.  
Cause called and argued by David S. Kim, counsel for appellant, via teleconference, and Jeanne M. Fahey, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Siggins joined the bench. Justice Horner did not participate in argument of the next case but remained in the courtroom.

A115589     In re Ashley W., et al.,  
                 Solano County Health & Social Services Agency,  
                 v.  
                 Ashley W., et al.,  
Cause called and argued by Courtney S. Phleger, counsel for appellant minors; Lori Mazzella, counsel for appellant County; and Valerie E. Sopher, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak left the bench. Justice Horner re-joined argument for the remaining case.

A115178     Laura Ann Berzin,  
                 v.  
                 Department of Motor Vehicles.  
Cause called and argued by Mary S. Cain-Simon, counsel for appellant, and Jenney D. Smith, counsel for respondent. Cause ordered submitted.

Court Adjourned

Wednesday, August 8, 2007 (continued)

Division Five

**A114301 – In re Leah W., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. Kevin W.**

The May 24, 2006 disposition order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A116070 – In re Darrell H., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau v. Amanda B.**

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Thursday, August 9, 2007

Division Two

**A114901 – In re the Marriage of Wensen and Mervin Mark Sarchet. Wensen Tang Sarchet v. Mervin Mark Sarchet.**

The part of the April 2006 order modifying the child support order is reversed and the remainder of the order is affirmed. This case is remanded to the trial court so that it can recalculate Wensen's support obligation. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A113320 – In re James W., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Sandra S.**

The order of November 18, 2005, is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, August 9, 2007

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Ching and S. Wheeler, Deputy Clerk.

- A114126      The People,  
                 v.  
                 Chalee Wilson.  
Cause called and argued by Stephen B. Bedrick, counsel for appellant, and Lisa Ashley Ott, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A112452      The People,  
                 v.  
                 Paul Casanas.  
Cause called and argued via teleconference by Violet Elizabeth Grayson, counsel for appellant, and Ann P. Wathen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A115624      Tommie Sparks, Sr. et al.  
                 v.  
                 Keenan Properties Inc.  
Cause called and argued by Jon Neumann, counsel for appellants, and Drew Alan Burford, counsel for respondent. Cause ordered submitted.
- At this point in the proceedings J. Lambden left the bench and J. Richman joins the bench for the remainder of the calendar.
- A113864      Shariam Sharareh  
                 v.  
                 Workers' Comp. Appeals Board and State Comp. Ins. Fund et al.  
Cause called and argued by Bryce C. Anderson, counsel for petitioner, and Mark Cartier, counsel for respondents. Cause ordered submitted.
- A115626      Yuka Nakamura,  
                 v.  
                 John Marshall Parker.  
Cause called and argued by Minouche D. Kandel, counsel for appellant; no

appearance for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P.J., Lambden, J., Richman, J., Officer Ching and S. Wheeler, Deputy Clerk.

A114705 Suzanne A. Guyette et al.,  
v.  
Viacom Inc. et al.  
Cause called and argued by Gilmur Murray, counsel for appellants, and Gary Lafayette, counsel for respondents. Cause ordered submitted.

**COURT ADJOURNED.**

Thursday, August 9, 2007 (continued)

Division Four

**A114866 – In re Amanda A., et al., Persons Coming Under the Juvenile Court Law.  
San Mateo County Human Services Agency v. Marie F.-A.**

As the juvenile court's October 2006 order returning Amanda and Aaron to Marie's custody renders this appeal moot, the appeal is dismissed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Friday, August 10, 2007

Division Two

**A114406 – The People v. Steven Alan Thoreson.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

**A110285 – The People v. Eddie Rapoza.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A113018 – The People v. Frank Mejia.**

By the Court: It is ordered that the opinion filed herein on July 13, 2007, be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. Simons, Acting P.J. (Not for Publication.)

Monday, August 13, 2007

Division Three

**A115589 – In re Ashley W. et al., Persons Coming Under the Juvenile Court Law. Solano County Health & Social Services Department v. Ann D. W.**

The juvenile court is ordered to vacate its September 27 and November 7, 2006, orders and issue a new and different order setting a section 366.26 hearing. Nothing in this opinion, however, shall be deemed to pre-determine any issue to be decided at that hearing. The stay previously put in place by the writ of supersedeas is dissolved and shall no longer have any force or effect.

Because we reverse the juvenile court's original orders requiring the Department to develop a transition plan to effect the return of the children to their mother, the issues concerning the sections 385 and 388 motions are moot and we do not reach them. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Five

**A112244 – The People v. Gary Videl Dillahunt.**

The superior court shall modify the abstract of judgment to reflect 615 days of presentence credits for actual time in custody and 92 days of conduct credits. The judgment is otherwise affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A115267 – In re Corey S. and Angel S., Persons Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. Patricia S.**

The orders of the juvenile court are affirmed. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A114467 – Larry Totten et al. v. Jeanne L. Hill.**

We vacate the judgment and order the action dismissed. Costs to Hill. Simons, J. We Concur: Jones, P.J., Gemello, J. (Certified for Publication.)

**A115616 – In re T.B. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Kathleen W.**

The order denying Mother's section 388 petition is reversed and the matter is remanded to the juvenile court with directions to order CFS to comply with the notice provisions of the ICWA. After finding that proper notice has been provided and after either receiving determinations of tribal membership or eligibility for membership or waiting the required time period, the court shall make findings whether the minors are Indian children. If the minors are Indian children, the court shall proceed in conformity with all provisions of the ICWA. If the minors are found not to be Indian children, the court shall reinstate the order denying Mother's section 388 petition. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Tuesday, August 14, 2007

Division One

**A113344 – Raymond A. Chamberlin v. City of Berkeley, City of Albany.**

The court shall vacate the writ to the extent that it directed Berkeley to perform additional environmental review of the issue of traffic diversion, and instead shall enter judgment in Berkeley's favor. In all other respects the order and judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A113794 – The People v. Larry Redic.**

The judgment is modified to strike the concurrent sentence imposed for kidnapping on count eight and instead to provide that sentence be stayed on that count under section 654. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a copy of the amended abstract of judgment to the California Department of Corrections. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A114028 – The People v. George Johnson.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

**A115982 – In re Y.B., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jasmine A.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A115235 – The People v. Robert John Bayless.**

Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A113719 – The People v. Joseph Vincent Romeo.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Tuesday, August 14, 2007 (continued)

Division Three

**A115178 – Laura Ann Berezin v. Department of Motor Vehicles.**

The judgment is reversed and the case is remanded to the trial court for further proceedings. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 9.276(a)(4).) McGuiness, P.J. We Concur: Siggins, J., Horner, J. \* (Not for Publication.)

Division Five

**A114858 – Deborah L. Rivera v. Hopland Band of Pomo Indians Economic Development Corporation.**

The judgment is affirmed, and costs are awarded to respondent. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 15, 2007

Division Two

**A116010 – In re J.A. et al., Persons Coming Under the Juvenile Court Law.  
Alameda County Social Services Agency v. K.H.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Four

**A115016 – Konstantin Shabanov et al. v. San Francisco Housing Authority et al.**  
The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A109625 – The People v. Benjamin Dawson.**  
The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, August 16, 2007

Division Two

**A111448 – Kristen H. Niesar v. Zantaz, Inc., et al.**

The judgment is affirmed. Defendants are awarded their costs in connection with this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A115889 – In re K.B. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Belinda W.**

The orders appealed from are affirmed. The remainder of appellant's motion to strike or disregard portions of respondent's brief and for sanctions is denied. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

**A111536 – Susan Jama v. The Penguins Restaurant et al., Jeffrey G. Locke, as Trustee in Bankruptcy.**

The judgment for the defendants is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A113497 – The People v. Richard Michael Colombo.**

The judgment is reversed and remanded for a new trial in accordance with the views set forth in this opinion. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A110351 – The People v. Ronald Virgil Brooks.**

By the Court: It is ordered that the opinion filed herein on July 18, 2007 be modified as follows: (See order.) The Petition for Rehearing is denied. This modification does not effect a change in the judgment. Kline, P.J. (Not for Publication.)

**A103410 – The People v. Kevin Leon Morris, Sr.**

**A108912 – In re Kevin Leon Morris, Sr., on Habeas Corpus.**

Our prior decision in *Morris III* is hereby vacated. The judgment is modified to stay the sentence imposed for the assault conviction pursuant to Penal Code section 654. The judgment of conviction is affirmed in all other respects. The clerk of the superior court is directed to prepare and amended abstract of judgment reflecting the modification, and to forward a certified copy to the Department of Corrections and Rehabilitation. The petition for a writ of habeas corpus is denied. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Thursday, August 16, 2007 (continued)

Division Five

**A113648 – The People v. Paul Leo Fitzpatrick.**

The judgment is affirmed. Simons, Acting P.J. We Concur: Gemello, J., Needham, J.  
(Not for Publication.)

**A117149 – Zenith Insurance Company v. Workers' Compensation Appeals Board and Catherine Watts.**

The portion of the award applying the 1997 permanent disability rating schedule is annulled, and the case is remanded for recalculation of Watts's permanent disability rating under the schedule that went into effect on January 1, 2005. In all other respects, the award is affirmed. The parties shall bear their own costs herein. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

Friday, August 17, 2007

Division One

**A113967 – Murray Kelsoe v. California State Water Resources Control Board.**

By the Court: The opinion in this matter, filed July 20, 2007, is herein modified as follows: (See order.) This modification does not affect the judgment. The petition for rehearing is denied. Marchiano, P.J. (Certified for Publication.)

**A116599 – In re Tatiana P., a Person Coming Under the Juvenile Court Law. The People v. Tatiana P.**

After a full review of the record, we find no arguable issues and, accordingly, affirm the order. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Four

**A113370 – In re Alfred William Roderick, on Habeas Corpus.**

The order is affirmed. The Board is ordered to vacate the denial of parole and to conduct a new parole suitability hearing for Roderick consistent with this opinion. The hearing shall be held no later than November 14, 2007. Rivera, J. I Concur: Ruvolo, P.J. (See Dissenting Opinion by Sepulveda, J.) (Certified for Publication.)

Division Five

**A115408 – Brentwood Rod and Gun Club, Inc. v. Contra Costa County et al.**

The order denying the petition for a writ of mandate is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A118048 – In re Drake C., et al., Persons Coming Under the Juvenile Court Law. Shirley W. v. The Superior Court of Humboldt County; Humboldt County Department of Health & Human Services, Social Services Branch, R.P.I.**

The May 7, 2007 orders are affirmed. The decision of this court is final forthwith. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Monday, August 20, 2007

Division One

**A118289 – N.L. v. Superior Court of San Francisco County; San Francisco County Department of Human Services et al., R.P.I.**

The request for stay is denied, and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Rule 8.264(b)(3).) Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A116988 – Lyngso Garden Materials, Inc., et al. v. Workers' Compensation Appeals Board, et al.**

That portion of the award applying the 1997 permanent disability rating schedule is annulled. In all other respects, the award is affirmed. The parties shall bear their own costs herein. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A112467 – The People v. Timothy George Wight.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A117859 – The People v. Mark Delroy Daley.**

The motion for summary reversal is granted. The judgment entered June 11, 2007 is reversed, and the cause is remanded for a new sentencing hearing in accordance with this court's prior opinion and recent Supreme Court authority (see *People v. Black* (July 19, 2007, S126182) \_\_ Cal.4th \_\_ [2007 Cal. Lexis 7604]; *People v. Sandoval* (July 19, 2007, S148917) \_\_ Cal.4th \_\_ [2007 Cal. Lexis 7606]). McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A112954 – Arnold S. Malter v. Barry S. Willdorf.**

The appeal is dismissed. Respondent shall recover his costs on appeal. (Rule 8.276(a)(2).) Respondent is also entitled to recover reasonable attorney fees associated with defending the appeal. (Rule 3.1702(c); *Dove Audio Inc. v. Rosenfeld, Meyer & Susman, supra*, 47 Cal.App.4th at p. 785.) McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, August 21, 2007

Division Three

**A116005 – In re Brandon S., a Person Coming Under the Juvenile Court Law. The People v. Brandon S.**

The dispositional order of the juvenile court is reversed as to count one and affirmed as to counts two and three. Horner, J.\* We Concur: McGuiness, J., Pollak, J. (Not for Publication.)

**A115312 – The People v. Omega Ray Ford.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A112495 – The People v. Iyana Johnson.**

The judgment is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A117789 – The People v. Carl Kelly.**

The judgment is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

Division Four

**A117193 – In re Otis G., a Person Coming Under the Juvenile Court Law. The People v. Otis G.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A116548 – In re Michael F., a Person Coming Under the Juvenile Court Law. The People v. Michael F.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, August 21, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A112197      People  
                 v.  
                 Lorenzo Stevens  
Cause called. A. Charles Dell'Ario argued for appellant Stevens. Arthur Beever argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Rivera, J.

A112870      Roberta A. Steele  
                 v.  
                 Cingular Wireless, Inc.  
Cause called. Donald E. Wharton argued for appellant Steele. Gary Watt argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A116944      People  
                 v.  
                 Oscar Adrian Beltran  
Cause called. Laurretta Oravitz-Komlos argued for appellant Beltran. Chris Grove argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A116944

Clear Channel Outdoor, Inc.

v.

Advertising Display Systems et al.

Cause called. James C. Martin argued for appellant Clear Channel. Janet L. Everson argued for respondents. Cause submitted.

Court recessed at 11:20 a.m.

Wednesday, August 22, 2007

Division One

**A115028 – In re Justin F., a Person Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Charline P.**

The juvenile court's orders are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A114700 – In re Damien B. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jade B.**

The July 21, 2006 removal order is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A114778 – In re the Marriage of Jeanpierre and Rosie McKinney Cadoux. Jeanpierre Cadoux v. Rosie McKinney Cadoux.**

The ruling of the trial court is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

**A116477 – The People v. Charles Alfred Glasper.**

The judgment is affirmed. McGuiness, P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

**A116409 – The People v. Derek Otis Tucker.**

The judgment is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. McGuiness, P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, August 22, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J., and P. Acosta, Deputy Clerk.

- A115856 Albion River Watershed Assoc et al.,  
v.  
California Department of Parks;  
Mendocino Redwood Company, LLC,  
Cause called and argued by Joshua Kaufman, counsel for appellant, via  
teleconference, and Stephen Johnson, counsel for respondent. Cause ordered  
submitted.
- A116315 In re James H., a Person Coming Under the Juvenile Court Law.  
The People,  
v.  
James H.  
Cause called and argued by Jeffrey Bryant counsel for appellant, and Jeremy Price,  
counsel for respondent. Cause ordered submitted.
- A113236 Friends of Lagoon Valley,  
v.  
City of Vacaville, et al.;  
Triad Communities, et al.  
Cause called and argued by Stuart Flashman counsel for appellant, and David Levy  
counsel for real party in interest. Cause ordered submitted.
- At this point in the proceedings, Justice pro tem Horner joined the bench. Justice  
Pollak left the bench.
- A115715 The People,  
v.  
Tracy Kelly.  
Cause called and argued by Richard Doctoroff counsel for appellant, and Catherine  
McBrien counsel for respondent. Cause ordered submitted.

A113611    Padmanabhan Ramanathan,  
              v.  
              Bank of America Corporation.  
Cause called and argued by Mary S. Cain-Simon, counsel for appellant, and Jenney  
D. Smith, counsel for respondent. Cause ordered submitted.

A114372    Andrea Associates,  
              v.  
              Stony Point West et al.,  
Cause called and argued by Robert Stumpf, counsel for appellant, and Mark  
McKeen, counsel for respondent. Cause ordered submitted.

Court Recessed Until 1:30 p.m.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, August 22, 2007

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Siggins, J., and Horner, J., pro tem.; and B. Robbins, Deputy Clerk.

A114409     The People,  
              v.  
              Paul Dalporto.  
Cause called. The Court noted that the request for oral argument had been withdrawn. Cause ordered submitted.

A114101     Super Dieter's Tea Cases.  
              Judicial Council Coordination Proceeding No. 3185.  
Cause called and argued by Christopher E. Grell, counsel for appellant, and Steven E. Paganetti, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench. Justice Pollak joined the bench and presided over the remainder of the afternoon session.

A114953     Jasper Rice, et al.,  
              v.  
              Center Point, Inc., et al.  
Cause called and argued by Bradford C. Floyd, counsel for appellant; Paul A. Brisso, counsel for respondent Center Point, Inc.; and Wayne H. Maire, counsel for respondent Humboldt Recovery Center, Inc. Cause ordered submitted.

A116448     Philip Feng Meng Kuo,  
              v.  
              Department of Motor Vehicles of the State of California.  
Cause called and argued by Raymond W. Hamilton, counsel for appellant, and James F. Campbell, counsel for respondent. Cause ordered submitted.

Court Adjourned

Wednesday, August 22, 2007 (continued)

Division Four

**A116408 – In re Sandy B., a Person Coming Under the Juvenile Court Law. The People v. Sandy B.**

The dispositional order is affirmed. Rivera, J. We Concur: Ruvolo, P.J.. Sepulveda, J. (Not for Publication.)

**A115584 – In re Corrine W. a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Y.C., Corrine W.**

The order is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

**A112906 – Mary Musaelian v. William L. Adams et al., John G Warner.**

By the Court: The petition for rehearing filed by respondents on August 7, 2007, is denied. The opinion filed herein on July 25, 2007, is ordered modified as follows: (See order.) There is no change in the judgment. Ruvolo, P.J. (Certified for Partial Publication.)

Division Five

**A114928 – In re the Marriage of Marilee Lynn Delauer and Charles Paul Delauer. Marilee Lynn Delauer v. Charles Paul Delauer.**

The judgment is reversed. The case is remanded for further proceedings consistent with this opinion. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A111845 – Carl Blau v. Northridge Hospital Medical Center, et al.**

The trial court's judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, August 23, 2007

Division One

**A114911 – The People v. Andrew Donnell Gaines.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A114476 – The People v. Angelo Escalante.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A115920 – Lynette Jones et al. v. Los Gatos Construction Company, Inc.**

The judgment is reversed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A111933 – The People v. Eduardo Cabrera.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A116784 – In re Omar N., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Abdul N.**

The juvenile court's dispositional order of February 7, 2007, is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Five

**A115340 – The People v. Michael Wayne Hamburg.**

The judgment is reversed and remanded with instructions to permit Hamburg a reasonable opportunity to withdraw his no contest plea if he so elects, and to undertake such further proceedings as may be necessary. Needham. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A115079 – Gloria Peterson v. John Crane, Inc.**

The judgment is affirmed. Needham, J. I Concur: Gemello, J. (See Dissenting Opinion by Jones, P.J.) (Certified for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, August 24, 2007

Division One

**A117202 – Alberto Alvarez v. The Superior Court of San Mateo County; San Jose Mercury News, Inc., et al, R.P.I.**

The petition for writ of mandate is granted. We vacate the superior court's order (1) denying defendant's motion to seal the grand jury transcripts until after the completion of his trial and (2) granting Mercury News's motion to unseal the grand jury transcripts. The case is remanded to the superior court for reconsideration of the motions using the "reasonable likelihood" standard of prejudice in section 938.1, subdivision (b). The temporary stay of the trial court's order unsealing the transcripts is vacated, having served its purpose during the dependency of these proceedings. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

**A115321 – In re Mario W., a Person Coming Under the Juvenile Court Law. The People of the State of California v. Mario W.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Four

**A113659 – Nathan Cohn v. Law Office of Raymond H. Levy, Inc. et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A116115 – Rosemary Parvizi et al. v. Abraham G. Hsieh M.D.**

By the Court: The petition for rehearing is denied. Reardon, Acting P.J.

Division Five

**A112964 – In re Groundwater Cases.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

**A112009 – Marlene Jones v. Sophie Serrato.**

The trial court judgment is affirmed. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Monday, August 27, 2007

Division One

**A114737 – In re Justice W., a Person Coming Under the Juvenile Court Law.  
Contra Costa County Children and Family Services Bureau v. L.J.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A114817 – The People v. Jihad Mohammed.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A117202 – Alberto Alvarez v. The Superior Court of San Mateo County; San Jose Mercury News, Inc., et al., R.P.I.**

By the Court: It is ordered that the opinion filed herein on August 24, 2007, be modified as follows: (See order.) Marchiano, P.J. (Certified for Publication.)

Division Four

**A105905 – The People v. Vincent Tu.**

For all these reasons we conclude that since a juvenile court can constitutionally and reliably adjudicate a delinquency matter without affording the minor a jury trial, there is no constitutional impediment to the subsequent use of the juvenile adjudication for purposes of enhancing an adult offender's sentence. The trial court had constitutional permission to rely on appellant's juvenile criminal history. With that permission it properly considered a host of additional factors in imposing the upper term. There being no error, the judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Certified for Publication.)

Tuesday, August 28, 2007

Division One

**A114679/A115686 – San Leandro Teachers Association et al. v. Governing Board of the San Leandro Unified School District et al.**

Because the internal school mailbox system is a nonpublic forum and the District's restrictions on its use are reasonable and viewpoint neutral, we conclude that the District's policy is constitutional. We therefore reverse the trial court's order and reverse the order awarding attorney fees. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication.)

**A115115 – The People v. Kent Bradburn.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A114667 – Lili Butler-Rupp et al. v. Roseanna Lourdeaux et al.**

Respondents request that we exercise our prerogative to award them their attorney fees in connection with this appeal, as well as to affirm the award of fees granted by the trial court in connection with the former appeal. We decline that request since that issue is best left for resolution in the trial court.

The trial court's order awarding attorney fees to respondents in connection with the prior appeal is affirmed. Respondents shall recover their costs on appeal. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication.)

**A115516 – Mohamed Alkadri v. John S. May.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A113985 – Alexander Norton v. State of California.**

In light of all this, we reverse the order of the trial court and remand this matter to it for its reconsideration and, if it considers it appropriate, a new hearing. Accordingly, we do not reach the substantial evidence or section 8103 procedural issues raised by Norton. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A114777 – Paul Den Beste v. John F. DeMeo et al.**

The order of dismissal is affirmed. The DeMeos are entitled to costs and attorney fees on appeal (§ 425.16, subd.(c)), the amounts to be determined by the trial court. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Tuesday, August 28, 2007 (continued)

Division Three

**A117993 – In re Michael Robert Hiscox, on Habeas Corpus.**

Accordingly, we remand this case to the superior court for re-sentencing. Pursuant to stipulation, this opinion is final for all purposes immediately upon filing, and the clerk of the court shall immediately issue the remittitur herein. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A114101 – Christopher Grell v. Laci Le Beau, Inc.**

The trial court's order is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A113236 – Friends of Lagoon Valley v. City of Vacaville, et al.**

The judgment is affirmed. Appellant shall bear costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Certified for Publication.)

**A116969 – The People v. Gary Duane Smith.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak J., Horner, J.\* (Not for Publication.)

Division Four

**A116616 – Tamara Cline et al. v. Gwendolyn R. Davis et al.**

The order appealed from is reversed. This matter is remanded to the superior court with directions to vacate its order, and to enter a new order granting defendants' motion. Appellants shall recover their costs on appeal. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A114986 – R.A. Stuchbery & Others Syndicate 1096 v. Redland Insurance Company.**

The judgment is affirmed. Respondent shall recover its costs on appeal. Simons, Acting P.J. We Concur: Gemello, J., Needham, J. (Certified for Publication.)

**A115771 – In re M.M., a Person Coming under the Juvenile Court Law. Humboldt County Department of Health & Human Services v. Michael T., Karuk Tribe of California et al., M.M.**

The appeal is hereby dismissed for lack of jurisdiction. Needham, J. We Concur: Jones, P.J., Gemello, J. (Certified for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 29, 2007

Division One

**A115418 – The People v. Ezell Coilton, Jr.**

The judgment of conviction is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A114125 – The People v. Jason Bighead.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A114315 – Bushra Eckstein et al. v. Kaiser Foundation Health Plan, Inc., et al.**

The judgment is affirmed. Kaiser is awarded their costs on appeal. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A114907 – The People v. Raul Gochez.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A114798 – In re Kevin L., a Person Coming Under the Juvenile Court Law. The People v. Kevin L.**

**A117928 – In re Kevin L., on Habeas Corpus.**

The matter is remanded with directions to the juvenile court (1) to strike from the July 10, 2006 written depositional order the words, “Maximum period of confinement is 8 years,” and (2) to amend page one of the commitment order to reflect that the court ordered appellant to be committed for a maximum term of three years. The juvenile court shall send an amended commitment order to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. The dispositional and commitment orders are otherwise affirmed. The petition for writ of habeas corpus is summarily denied. Pollak, Acting, P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 29, 2007 (continued)

Division Three

**A115715 – The People v. Tracy Kelly.**

The order is affirmed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.\* (Certified for Partial Publication.)

**A114409 – The People v. Paul Dalporto.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A114953 – Jasper Rice et al. v. Center Point, Inc., et al.**

The judgment is affirmed. Defendants are to recover their costs on appeal. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.\* (Certified for Publication.)

**A115856 – Albion River Watershed Protection Association et al. v. California Department of Parks and Recreation; Mendocino Redwood Company, LLC., R.P.I.**

The judgment is affirmed. MRC and the department shall recover their costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A115983 – In re Thomas F., a Person Coming Under the Juvenile Court Law. The People v. Thomas F.**

The appeal is dismissed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A116448 – Philip Feng Ming Kuo v. Department of Motor Vehicles.**

The judgment granting the writ of administrative mandamus is reversed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

**A114372 – Andrea Associates v. Stony Point West et al.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

---

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 29, 2007 (continued)

Division Four

**A113728 – The People v. Laquain Larry Scott.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A114636 – Sheet Metal Workers International Association, Local Union No. 104 v. John M. Reardon, J., as Acting Director, etc.; Solano County Roofing, Inc., R.P.I.**

By the Court: It is ordered that the opinion filed herein on July 30, 2007, be modified as follows: (See order.) There is no change in the judgment. Ruvolo, P.J. (Certified for Publication.)

Division Five

**A117049 – In re J.T., et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Sandra S.**

The judgment terminating parental rights is reversed and the case is remanded to the juvenile court with directions to order CFS to comply with the notice provisions of the ICWA. If, after proper notice, the court finds that the children are Indian children, the juvenile court shall proceed in conformity with all provisions of the ICWA. If, on the other hand, the court finds that the children are not Indian children, the judgment terminating parental rights shall be reinstated. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Certified for Publication.)

**A113629 – The People v. Lacy Winzer.**

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, August 30, 2007

Division One

**A111595 – The People v. Johnny Leroy Reed et al.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A112452 – The People v. Paul Casanas.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A117192 – In re Erick M., a Person Coming Under the Juvenile Court Law. The People v. Erick M.**

The March 13, 2007 order is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A115425 – In re Thomas H., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Robert H., et al.**

The orders appealed from are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A117092 – The People v. Tammy R. Thayer.**

The judgment and sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A116663 – In re Elizabeth L. et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Craig L.**

The January 29, 2007, orders terminating parental rights are vacated and the matter is remanded to the juvenile court with directions to order compliance with the notice provisions of ICWA. If, after proper inquiry and notice, no response is received from a tribe indicating a minor is an Indian child, all previous findings and orders shall be reinstated with respect to that minor. If a tribe determines that a minor is an Indian child, the court shall conduct a new section 366.26 hearing with respect to that child in conformity with ICWA and applicable state law. McGuiness, P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, August 30, 2007 (continued)

Division Three

**A116451 – The People v. Byron Hood.**

The judgment is affirmed. Horner, J.\* We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

**A113611 – Padmanabhan Ramanathan v. Bank of America.**

We reverse the superior court's grant of summary judgment and remand for further proceedings consistent with this opinion. Horner, J.\* We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A115859 – The People v. Stanley Holton.**

The judgment is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A113970 – The People v. Cesar Valadez.**

**A116082 – Cesar Valadez v. The Superior Court of Alameda County; The People, R.P.I.**

The judgments in H36847B and H39895A are affirmed. The petition for writ of mandamus is denied. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A113744 – Timothy Hessong v. City and County of San Francisco.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A112497 – The People v. Markell Scott et al.**

The convictions are affirmed and defendant Ramsey's case is remanded to the trial court for the limited purpose of resentencing Ramsey in accordance with the views expressed in this opinion. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, August 30, 2007 (continued)

Division Four

**A112870 – Roberta A. Steele v. Cingular Wireless LLC.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A113672 – The People v. Chili Willie.**

The appeal from the April 14, 2004 ruling is dismissed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A115260 – In re Haley M., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Carol M.**

By the Court: It is ordered that the opinion filed herein on August 1, 2007, be modified as follows: (See order.) This modification does not effect a change in the judgment. The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

**A115221 – Michael Sawyers v. The Regents of the University of California.**

The judgment is affirmed. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

Friday, August 31, 2007

Division One

**A113077 – In re Kimberly C., a Person Coming Under the Juvenile Court Law. The People v. Kimberly C., James C. et al.**

The restitution orders regarding appellant are affirmed as a reasonable condition of appellant's probation. The restitution order regarding appellant's parents is reversed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A117011 – The People v. Robin K. Hammock.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A115929 – In re Mario R., a Person Coming Under the Juvenile Court Law. The People v. Mario R.**

The judgment of the juvenile court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A114874 – The People v. Jontae L. Bailey.**

For the foregoing reasons, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A118303/A118679 – Peninsula Guardians Inc. v. Peninsula Health Care District et al.**

By the Court: The stipulation by the parties to consolidate the above-referenced appeals is granted for purposes of briefing, oral argument, if any, and decision. Both case numbers shall appear on all documents filed in this court.

Appellant's consolidated opening brief shall be due 30 days from the filing of the reporter's transcript in A118679. McGuiness, P.J.

**A114450 – The People v. Tamarcus Williams.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, August 31, 2007 (continued)

Division Three

**A116315 – In re James H., a Person Coming Under the Juvenile Court Law. The People v. James H.**

The July 3, 2006, order granting BPH's petition for the disclosure of appellant's juvenile court records is reversed and the case is remanded for further proceedings consistent with this opinion.

On remand, the superior court shall enter a new order denying BPH's petition for disclosure of the records, and shall secure the return of all copies of the sealed juvenile court records that were released pursuant to the July 3 order. The court shall direct BPH and other parties to whom the records were released to return any copies of the records in their possession, and to obtain and return any copies that they or their agents may have provided to third parties. The court shall also conduct a hearing to consider whether those records should be destroyed or maintained, pursuant to section 781, subdivision (d). If the records are not destroyed, the superior court shall maintain them under seal and shall not release them for use in any other legal proceeding against appellant, or for any other purpose, except as authorized by law.

The clerk of this court is directed to serve a copy of this opinion on the Humboldt County Superior Court, where SVP proceedings against appellant are currently pending in Case No. CV070143. Siggins, J. We Concur: McGuinness, P.J., Pollak, J. (Certified for Publication.)

Division Four

**A115592 – In re Devon F., a Person Coming Under the Juvenile Court Law. The People v. Devon F.**

The order of the juvenile court, denying the minor's motion pursuant to section 779, is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A114944 – Roy Gatan et al v. Alarm One, Inc. et al. Carol Lopez et al. v. Monitronics International, Inc.**

The order denying class certification and denying intervention are affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Friday, August 31, 2007 (continued)

Division Five

**A113567 – The People v. Vince Williams.**

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment showing that the six-month terms imposed on counts IV, VIII, and XII, for providing false information to a pawnbroker in violation of section 484.1, subdivision (a), are stayed. In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A117259 – The People v. Michael Edwin Suderman, Jr.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A111875 – The People v. Andrew Li.**

The judgment of conviction is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)